

City of Santa Barbara
Single Family Design Guidelines Update
Neighborhood Preservation Ordinance Update

ISSUE PAPER E

Zoning Modifications Review

I. Overview & Purpose

The purpose of this issue paper is to review the City's zoning modification process and to consider the relationship between modifications and the Neighborhood Preservation Ordinance (NPO). During some NPO Update meetings, some members of the public commented that they believe the City is approving too many zoning modifications and that such approvals are contributing to over developed single-family residential project sites. The NPO Update Steering Committee specially requested a modification discussion to understand the relationship between modifications and single family residential development patterns. The purpose of this paper is to provide the Steering Committee and the public with information about how zoning modification requests are currently reviewed. The Steering Committee and public discussion of the issue paper will secondarily aid a future Planning Commission discussion of whether any minor changes to the process are appropriate. Staff does not recommend extensive changes to the zoning modification review process as part of the NPO Update or future Planning Commission discussions.

Background regarding key changes to City zoning standards such as past downzoning is presented in this issue paper to provide clarity regarding why certain types of zoning modifications appear more prevalent in certain zones of the City. City modification application review standards, rationales for approvals, previous precedents and past practices are also examined to assist in providing a better understanding of the current basis for granting zoning modification approvals.

Research has been completed to investigate what other cities use for criteria or findings necessary for "variance" approvals for comparison purposes. This information can be compared with current criteria used by the City of Santa Barbara. Graphs showing the types, location and number of modification applications for single-family homes (and some duplexes) are provided (1997-2003) to analyze if trends have developed over the last several years. Finally, staff raises questions for discussion purposes on various changes or adjustments available for reviewing zoning modification applications associated with development proposals in single-family residential zones. The following discussion points are explored in this issue paper. Planning Staff intends to hold a review and discussion with the Planning Commission in the next few months. The October 8th meeting Steering Committee and public comments will be forwarded to the Planning Commission for consideration.

Issue Paper E

Zoning Modifications

- ◆ **Staff Review Criteria:** Are the current review criteria used by Staff to review zoning modification requests adequate and consistently applied or is it necessary to revise zoning modification approval standards?
- ◆ **Codes and Findings:** Are current codes and findings used to review zoning modification requests sufficient or is adjustment necessary?
- ◆ **Modifications vs. Variances:** Should zoning modification standards and findings be elevated for certain types of modifications to a “zoning variance” standard?
- ◆ **Trigger Mechanisms:** Should we maintain existing trigger mechanisms that require certain projects with zoning modifications to be reviewed by the ABR or HLC?
- ◆ **Noticing:** Should increased noticing requirements be implemented to increase awareness of zoning modifications?
- ◆ **Development Patterns:** Are we achieving the desired result in neighborhoods?
- ◆ **Status Quo Analysis:** Are the current zoning ordinance standards appropriate and are the review criteria achieving the desired result?

II. Background & History

Over the life of the City, zoning standards for residential properties have changed, resulting in an increase in the number of non-conforming properties. The existence and abundance of non-conforming lots and structures makes this City unique when compared with other cities. Many residential neighborhoods contain existing parcels that do not meet the current minimum lot area or setback requirements for their zone district. The existence of these substandard parcels and non-conforming buildings has a direct correlation to the quantity of zoning modifications requested. Understanding the City's past history of zoning changes allows for a better understanding of why zoning modifications are more commonly considered when residential development is proposed. These key regulations and changes are briefly summarized below.

Santa Barbara was one of the first communities in the nation to adopt a Zoning Ordinance, in the 1920's. With the adoption of the first zoning ordinance, some structures would have been deemed non-conforming with the ordinance. In 1957, the original ordinance was replaced, and additional structures became legally non-conforming with the new ordinance. Subsequent changes to zoning have occurred periodically over time. Some major changes are outlined below.

1. Residential Downzoning

In particular, the Impacts of Growth Study (IGS), completed in 1975, resulted in residential downzoning for many residential areas (See Map, Attachment 1). The residential downzoning was intended to reduce residential density levels (created through new subdivisions) to be consistent with the 85,000 population goal and was the initial step towards a concept of "living within resources". Specifically, downzoning changes in residential areas were adopted that increased minimum lot sizes in single-family areas, and reduced unit densities in multiple family areas. The downzoning was designed to allow fewer units to be constructed on a given parcel. However, the resulting downzoning created non-conforming structures throughout the City by effectively increasing front and interior yard setback requirements not consistent with already built structures.

The most common modification request involves a property owner's desire to add to a legal non-conforming structure that encroaches in a required setback without complying with the current setback. The property owner usually does not seek to encroach further into the setback, only to extend a wall along its existing length. The other most frequent design issue involves a reduction in available space and the inability to expand building footprints where significant site constraints exist. (The impact and effect on setbacks in certain neighborhoods due to the 1975 rezoning is outlined in Attachment 2.)

2. Reconstruction of Non-Conforming Structures

Zoning Ordinance amendments were adopted in 1998 involving non-conforming structures. The amendments allow nonconforming buildings or structures to be maintained, improved, or altered under certain conditions: (Refer to MC 22.87.030, Attachment 3)

- a. Improvements that do not change the use or the basic, exterior characteristics or appearance of the building or structure are allowed (including complete demolition and replacement of structures); or
- b. Interior improvements or upgrades consisting of replacement of materials that do not intensify the non-conformity; or
- c. Minor improvements that change or replace the exterior characteristics but do not intensify the level or size of the encroachment.

These amendments allow more flexibility for the reconstruction/repair of non-conforming structures. This ordinance reduces the circumstances where a zoning modification would be required.

3. Requirement for two covered parking spaces

Standards for off-street parking requirements were changed in 1980 to require residential projects proposing expansions of 50% of the existing floor area in single-family residential zones to comply with current standards for two uncovered parking spaces. The purpose of these zoning amendments was to ensure significant improvements proposed for properties with sub-standard parking would be upgraded to current standards. The impact of this regulation has sometimes caused zoning compliance problems given the current non-conforming size and locations of parking structures. Modifications are often requested to expand these non-conforming parking structures into required setbacks to meet the triggered two covered parking requirement when major expansion projects for private residences are proposed (Refer to MC 22.28.90, Attachment 4).

III. Zoning Modification Application Routing

Zoning modifications are reviewed at the following levels:

1. Modification Hearing Officer (MHO)

SBMC 28.92.026 states that modifications may be granted by the Planning Commission or by the Community Development Director subject to certain findings. The Community Development Director delegates the authority to act on minor modifications to the Modification Hearing Officer.

The MHO level is a staff level of review. Applications for zoning modification directed to this Staff level review consist primarily of residential projects involving routine or minor requests for zoning relief where no other Planning Commission reviews are necessary. SBMC 28.92.026.B.1 & 2 states that the Community Development Director may permit minor modifications if the requested modification is not part of the approval of a tentative subdivision map, conditional use permit, development plan, site plan, plot plan, or any other matter which requires approval of the Planning Commission; and if granted, the modification would not significantly affect persons or property owners other than those entitled to notice.

Site visits and pre-application consultations with applicants are conducted by the MHO; however, no staff report is prepared. A mailed notice of a public hearing is sent to property owners within 100 feet of the proposed project location and a public hearing is held prior to decisions rendered. All MHO approvals at this level may be reviewed by the Planning Commission for consistency and oversight. Staff may refer certain modifications to the Planning Commission even when it might otherwise be eligible for MHO review if the modification would potentially have a substantial effect on the neighborhood or the modifications would result with over-development of the site. Decisions of the MHO may also be appealed to the Planning Commission. The quantity of MHO approvals for zoning modifications for single family residential projects fluctuates from year to year, primarily influenced by the residential development activity levels. Over the past 15 years, an average of 85 modifications have been granted per year, (refer to the table below).

Modification Hearing Officer Applications 1979 - 2003				
Year	Approved	Denied	Withdrawn	Pending
1979	81	3	1	0
1980	90	4	1	0
1981	122	6	3	0
1984	89	0	4	0
1985	70	2	6	0
1986	91	0	1	0
1987	89	2	4	0
1988	102	0	4	0
1989	92	5	4	0
1990	76	2	3	0
1991	81	2	1	0
1992	76	2	2	0
1993	59	0	0	0
1994	53	0	2	0
1995	66	0	4	0
1996	65	3	9	0
1997	79	0	6	0
1998	78	2	1	0
1999	70	0	0	0
2000	100	4	1	0
2001	92	1	15	0
2002	97	2	14	5
2003	129	0	6	7

2. Planning Commission

The Planning Commission may grant or deny zoning modifications as part of discretionary approvals. A staff report is prepared and staff recommendations are provided for consideration. Findings of approval are fully explained. Decisions of the Planning Commissions may be appealed to the City Council.

The quantity of Planning Commission approvals is typically limited to projects where other approvals for single family residential projects are required (Coastal Development Permits or NPO findings) or when MHO decisions are appealed. Over the past 15 years, an average of 10 modifications associated with single family residential projects have been granted by the Planning Commission per year. MHO decisions appealed to the Planning Commission average one or two per year (Refer to Attachment 7).

3. City Council

Council may grant or deny zoning modifications on appeal or when considering project approvals. A staff report is prepared and staff discussion of issues and recommendations are provided for consideration. Findings for approval or denial are often necessary. Applications for zoning modifications directed to Council are most often as a result of appeals of earlier decisions of the MHO or Planning Commission. Decisions of City Council on modifications (not including a CDP) are final and are not appealable. Over the past 15 years, few modification decisions have been appealed to City Council.

IV. Required Municipal Code Findings for Modification Approval

City Planning Staff follows code findings and review criteria to evaluate a variety of requests for zoning modifications. The review criteria have been developed over time to guide staff towards the goal of consistent and fair decisions. Ultimately, the decision on every modification request depends on the facts of the specific project. Judgment is necessary in the process of determining if the granting of exceptions to the zoning standard are appropriate. Properties are unique to some extent and may involve different types and sizes of development proposals. For these reasons, it is difficult to standardize the review criteria so that applicants understand when a zoning modification will be approved or denied. Pre-application consultations with applicants are held for three primary reasons: 1) to determine if the development proposal can be modified so as to avoid the need for a modification; 2) to advise and guide applicants on project scope parameters and designs where zoning relief may or may not be supported by Planning Staff; and 3) to begin to identify if there is sufficient basis to make the required findings necessary for modification approval.

As part of the modification application process, Planning Staff researches permit records and archive plans and conducts a site visit to the subject property in order to better evaluate the merits and the basis for possible approval of modification requests.

The following required findings of approval are outlined in the Municipal Code Section 28.92.026 (See Attachment 5):

For modification of yard, lot and floor area regulations:

The modification request is reasonable and consistent with the purposes and intent of the Zoning Ordinance; or

The modification is necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement; or

The granting of the modification is necessary to secure an appropriate improvement to the property

For modification of parking or loading requirements:

The modification will not be inconsistent with the purposes and intent of this Title and will not cause an increase in the demand for parking space or loading space in the immediate area.

For modification of solar/height limitations:

A modification is necessary to prevent an unreasonable restriction.

V. Administrative Practice Review Criteria

The following set of additional evaluation questions is used by staff to further guide judgment on development proposals involving zoning modifications. Note, some of the review criteria are derived from required Municipal Code findings listed in Section IV., above, whereas other criteria has been developed by staff and used flexibly to provide guidance in considering modification requests.

1. General Review Criteria

- a. Will the modification of the zoning regulation result in a negative impact to adjacent neighbors with respect to the level of encroachment or relief requested?
- b. Is the property non-conforming with respect to existing setbacks and is relief necessary to secure an appropriate improvement to the property? (See Att. 5, MC 28.92.026.A.2)
- c. Will existing patterns of development or site design consistency be maintained for the neighborhood? / Will the granting of the modification promote uniformity of improvement? (See Att. 5, MC 28.29.026.A.2)
- d. Will the granting of the modification significantly affect persons or property other than those entitled to notice? (See Att. 5, MC.28.29.026.B.2)
- e. Are there other available design options to consider that would not necessitate a zoning modification approval?
- h. If applicable, does the Architectural Board of Review or the Historic Landmarks Commission have supportive comments regarding the aesthetic impacts of the proposed modification request(s).

2. Parking or Loading Modifications

- a. Will the modification cause an increase in the demand for parking space or loading space in the immediate area? (See Att. 5, MC 28.92.026)
- b. Will the granting of the modification create unsafe or substandard conditions based on traffic or parking safety?
- c. Does the Public Works Transportation Division support the granting of the modification because the parking design meets minimum or equivalent dimensions or does not create an unsafe condition?
- d. Will the improvement satisfy the parking demand for the project?

3. Fence, Screen, Wall and Hedge Modifications

- a. Is relief necessary to secure an appropriate improvement to the property?
(See Att. 5, MC 28.92.026.A.2)
- b. Will the granting of the modification promote uniformity of improvement?
- c. Will the granting of the modification create an unsafe condition?

- d. Is there a need to create private outdoor living space or separate private areas from public areas?
- e. Will the granting of the modification reduce noise?

4. Solar Access Height Limits

- a. Is the modification necessary to prevent an unreasonable restriction? (See Att. 5, MC 28.92.026.A.4)
- b. Can the project be redesigned without significantly compromising the design to avoid the need for the modification(s)?
- c. Will granting of the modification have a negative effect the adjacent property?
- d. Does the design meet criteria in Solar Access Guidelines?

5. Yard, Lot and Floor Area Modifications

- a. Will the granting of the modification prevent unreasonable hardship?
- b. Will the granting of the modification promote uniformity of improvement?
- c. Is the property constrained due to physical characteristics of the site?
- d. Is the request consistent with and similar to previous zoning modification approvals of this type and will it set a precedent?
- e. Does the Architectural Board of Review or the Historic Landmarks Commission have supportive comments regarding the aesthetic impacts of the proposed modification request(s)?

6. Possible Reasons for Denial or Referral to Planning Commission

- a. A reasonable alternative design solution is available. No site constraints exist that constitute an unreasonable hardship. The proposed site plan design can be modified or redesigned to avoid or reduce the need for the granting of modification(s).
- b. The modification(s) would create an unsafe condition on the property.
- c. The granting of the modification will facilitate the possible creation of or the perpetuation of an illegal dwelling unit or other zoning violation.
- d. The proposed has a history of permit and/or zoning violations that necessitates the removal of substandard construction.
- e. The work is as-built and would not otherwise have been permitted to be constructed in this manner or in its current location.
- f. The Architectural Board of Review or the Historic Landmarks Commission does not have positive comments regarding the project.
- g. The relief being requested is unusual, extreme or cumulatively unacceptable based on past practice or previous direction from the Planning Commission or City Council.
- h. The request for modification(s) requires referral to the Planning Commission due to the nature of the request or expected level of neighborhood opposition. (See Att. 5, MC 28.92.026.B.1)

7. Additional Special Review Criteria

The following supplemental review criteria were identified as “struggle areas” for which additional clarification on adopted policies or discussion is sometimes necessary to gain common understanding or to develop a staff position:

- a. **Off-Street Parking Value:** How should the value of a project coming to compliance with current off-street parking requirements be weighed against potential negative impacts of a modification?
- b. **As-Built Applications:** Should special consideration be given to as-built work involving encroachments if severe economic hardship would be involved with demolition or relocation of structures within setbacks? Or, should consideration of as-built modification requests be viewed as unfairly rewarding applicants who have not observed City Zoning standards and procedures?
- c. **Differing Design Review Board and Public Comments:** How should positive comments from the ABR or HLC regarding aesthetic impacts of a modification request be considered? How should negative public comment on projects favorably reviewed by the ABR and HLC be taken into consideration during a modification review?
- d. **Multiple Modifications:** Can multiple modifications for a single application development be the basis for not supporting a development proposal?
- e. **Approvals as Precedent Setting?:** Should previous examples of a type of modification approval made by the Planning Commission be considered a precedent-setting trend? If yes, would the trend carry over to set new administrative policy or review standards for all similar modification application types? How much should individual site constraints be weighted in comparison to following previous approval patterns for certain types of modification requests (e.g. parking requirement modification requests)?
- f. **Value of New Housing Units.** The focus of the NPO is on one-unit single-family development; however, the NPO purview includes duplex development. Housing Element policy encourages the construction of new residential units. How should the value of a new housing unit be weighed against potential negative impacts of a modification which may be needed to achieve a duplex on constrained lots?

Staff recommends that all the evaluation criteria be reviewed by the Planning Commission to confirm if the rationale and basis for modifications are appropriately on target with Planning Commission review standards. The PC liaison to the MHO, previous Planning Commission precedents and appeals of modifications all currently serve as effective oversight tools to confirm if staff is making sound decisions involving modification requests. Staff is interested in reviewing the specific types of modifications that may be considered examples of questionable approvals.

VI. Other Cities

Additional information is provided about basic review standards and findings for zoning variance approvals that other cities use for comparison purposes. (For more specific ordinance information, refer to Attachment 6). Please note, this table will be provided to the Planning Commission for consideration, but the focus of the Steering Committee meeting is not meant to include a detailed discussion of findings and criteria practices among other jurisdictions.

The City's zoning modification process is an unusual approach that recognizes the age of the City and the changes to the Zoning Ordinance that have resulted in an abundance of non-conforming structures that exist in this City. The modification process was developed and created as an allowed provision in the Zoning Ordinance with the specific intent of providing flexibility for specified zoning development standards as a result of ordinance changes over time, and especially down-zoning. The City's variance procedure, on the other hand, is primarily intended to provide relief on all other types of land use restrictions and variances have been rarely granted. Approximately three variances have been granted in the last twenty years.

In some ways, the general law variance requirements are more stringent than the City's modification findings. It is important to note that modifications are not available for all zoning standards while variances are available for any zoning standard. The City's modification procedures can and should be distinguished from general variance practice. They are a local creation, intended to address a local situation.

The differences between how the City of Santa Barbara's Variances and Modifications can be approved are outlined under Municipal Code Chapter 28.92 (see Attachment 5).

VII. Discussion Points

There is a perception from some community members that the City is approving too many zoning modifications. As stated above, many residents do not know the existing non-conforming nature of neighborhoods citywide. A great percentage of modification requests involve non-conforming properties. Overall, it appears modification approvals are instrumental in allowing reasonable development of properties with constraints or legal nonconformities. Even so, periodic review of the modification review process to ensure procedures and outcomes are desirable is useful. Following, six questions regarding modifications are presented for the purposes of discussion. Again, please note, the Steering Committee is not expected to conclusively discuss these items, rather initial comments will be forwarded the Planning Commission for consideration.

- A. **Criteria:** Is the current criteria used by Staff to review zoning modification requests adequate and consistently applied and is it necessary to revise zoning modification approval standards?

Staff reviews all zoning modification applications in a consistent manner following set review criteria as described above. Staff also understands the non-conforming nature of the built environment in residential neighborhoods. Past experience of similar proposals and previous Planning Commission decisions are used by Planning Staff to draw conclusions as to whether support can be given to a particular development application that proposes a zoning modification request. The quantity of zoning modifications approved can imply that situations where modifications are supported have increased. However, the types of zoning modifications being granted are a better indicator of any potential deviation from past practices (refer to the table below and graphs in Attachment 7 for information on types of modification approvals). For example, the most common type of relief requested is modification of interior or front yard setback requirements.

Modification Type	MHO Single Family Modification Approval Types All Residential Zone Districts						
	1997	1998	1999	2000	2001	2002	2003
A) Front Yard	33	37	34	44	54	41	53
B) Interior Yard / Side Yard	29	31	17	36	35	34	49
C) Open Yard	11	13	16	18	21	27	36
D) Rear Yard	2	3	0	4	2	5	7
E) Fence/Wall/Hedge Height	4	5	4	8	9	8	11
F) Lot Area	0	0	2	1	1	0	0
G) Accessory Structure	2	3	0	5	6	2	7
H) Solar Height Limitation	0	1	0	1	3	0	2

Staff routinely reviews development proposals prior to a formal modification application being filed. Staff tends to reject approximately 50% of these pre-applications as unsupportable. The MHO guides site designs to comply with current zoning standards by directing applicants to eliminate or adjust

plans to reduce the need for modifications. The general public is therefore unaware of these types of applications that are rejected or withdrawn for lack of staff support. Applicants are further advised that support cannot be given on extreme requests for zoning relief not consistent with past practice or when other compliance solutions are reasonably available. The difficulty in making decisions that may be viewed as inconsistent are the various different factors involved with each site or lot. Variables such as lot size, design configuration, topography, non-conforming conditions, neighborhood opposition levels and site constraints make all zoning modification decisions unique to some degree.

Planning Staff is of the opinion that there are consistent reasons and rationales for modification approvals for the different types of zoning modifications being requested. Several decisions of the MHO have been appealed, and are consistently upheld by the Planning Commission or City Council. Ongoing Planning Commission review and oversight of current review criteria can better evaluate if Staff review standards are correct or should be modified. Staff recommends that all review criteria be discussed with the Planning Commission to ensure staff is meeting expectations.

- B. **Codes & Findings:** Are current codes and findings used to review zoning modification requests sufficient or is adjustment necessary?

Requests for zoning modifications as part of residential development applications will continue to be proposed given the abundance of non-conforming structures in residential neighborhoods. Changes to findings could severely restrict the flexibility that is currently available for Planning Staff or the Planning Commission to grant future zoning modifications to expand these structures. Careful consideration should be given to review the various types of zoning modifications that have been routinely granted in the past to determine if adjustments are desired or warranted.

- C. **Modifications vs. Variances:** Should zoning modification standards and findings be elevated for certain types of modifications to a “zoning variance” standard?

Information has been provided in this research paper relative to how other cities regulate and allow zoning variances. It appears some cities have different findings of approval to justify the granting of “zoning variances”. It has been suggested that the zoning modification approval process be tightened to require a variance procedure where “special circumstances” or “unnecessary hardship” standards must be proven or present in order to grant relief from zoning standards. Standards developed by the Governor’s Office of Planning and Research for Variances are provided for review (See Attachment 8). Staff believes these standards as a whole are not very applicable to the unique characteristics of the City. Changing findings to be consistent with other cities with the goal of limiting modifications appears inconsistent with the intent of why the zoning modification process was created.

- D. **Trigger Mechanisms:** Are the existing trigger mechanisms that require certain projects with zoning modifications to be reviewed by the ABR or HLC adequate?

Staff believes the current triggers for requiring ABR review for certain sized projects if a zoning modification is being requested should be maintained. If a project is over 17' in height, and has, for example, an FAR over .35 or more than 4,000 square feet, the project will be referred to the ABR if a modification is proposed. In other words, the NPO/ABR exemption criteria, found in MC 22.68.045.C.3 and NPO Checklist question #13 cannot be met if a project proposes a zoning modification. The ABR and HLC can offer valuable insight on good design principles and improve the aesthetic qualities of the proposed project.

The trigger mechanism for ABR review can also be avoided if a project is phased or is submitted in a piece-meal fashion. This practice should also be curtailed by requiring a specific length of time between consideration of a modification and a recent addition since staff has found that to be a method to avoid ABR review. More discussion on piece-meal development is planned for future NPO update discussions.

- E. **Noticing:** Should increased noticing requirements in neighborhoods be implemented to increase the awareness of zoning modifications?

Statistics show there has been a recent increase in the quantity of zoning modifications approved per year. The increase can be partially attributed to the increased quantity of residential development applications overall. Neighborhoods are not necessarily required to be noticed at the ABR if a zoning modification public hearing is also scheduled and this has caused concern for some neighbors.

Staff agrees that increased awareness of staff-level zoning modification hearings may educate neighborhoods and residents on the frequency of modification requests. Staff is considering an increase in the minimum noticing distance standards to 300 feet to be more consistent with other communities. This and other noticing topics, such as potential on-site notice posting, will be further discussed with the Steering Committee as part of the future Staff Hearing Officer Ordinance amendments being considered by the Planning Commission.

- F. **Status Quo Analysis:** Are the current zoning ordinance standards appropriate and are the review criteria achieving the desired result?

Since the 1960s, the zoning modification application process has been used to improve non-conforming properties and to allow flexible design solutions when planners and decision-makers consider a wide variety of development proposals (residential, commercial and mixed use). The Modification process is recognized as an available option and is a well established part of the land development review process. Zoning modification approvals have been granted by the City Council, Planning Commission, and the MHO if site obstacles exist in achieving full zoning compliance and where applicants demonstrate a need for zoning flexibility or where site constraints warrant consideration for alternative designs to achieve uniformity in development. The Planning Commission has exercised this authority to grant modification approvals on a wide variety of development projects, including new construction on vacant parcels. In some cases, the Planning Commission has encouraged applicants to seek modifications and indicated support for possible

zoning modification approvals when alternative site plan configurations might achieve the preferred project design.

In certain situations, exceptions to current zoning standards may achieve a desired result such as greater density, alternative open space design for yards, creative off-street parking solutions or uniformity of development patterns. Closer examination of development applications involving recent zoning modification approvals may also reveal slight shifts in the manner in which modifications are being considered. For example, there is a history of allowing flexibility for residential expansion projects on corner lots located in a single-family residential zone where two front yards exist and relief is commonly requested to improve the property. Changes to the Zoning Ordinance to allow this practice of granting setback relief when equivalent open yard space exists on these types of corner lot sites may eliminate the need for this type of modification in the future.

Repeat approvals of certain types of modification requests can also result, over time, in heightened expectations from applicants that similar development proposals can also be approved even though different site conditions, lot size or other factors exist that may not warrant support. Repeat applicants or architects knowledgeable about city practices can perceive the modification approval process as an easier, more attractive, route than strict zoning compliance.

Multiple modifications as part of one development application are now more common. The relatively low cost of zoning modifications (\$370 for Staff MHO Hearing or \$850 for Planning Commission Review) when compared with other jurisdictions may also be a factor in increased applications or multiple modification requests. For example, many jurisdictions only approve the types of projects the City of Santa Barbara Modification Hearing Officer approves through a Planning Commission hearing with a substantially higher fee. Although modification application fees have been recently raised by about \$100, the City's relatively low application costs may be interpreted by applicants to indicate the granting of modifications is readily attainable.

Approval Costs for City of Santa Barbara Modification Category Projects
Reviewed at the Planning Commission Level

City of Santa Barbara	San Luis Obispo	Ventura	County of Santa Barbara	Camarillo	Goleta	Oxnard
\$850 plus	\$716	\$737	\$1,500	\$1,640	\$2,020	\$3416 plus

Planning Staff periodically reviews certain zoning standards to determine whether the standards should be changed to eliminate the need for zoning modifications. Three examples of Zoning Ordinance updates to address common modification development follow.

- **Demolition & Reconstruction of Non-Conforming Structures.** The non-conforming MC section 22.87.30 was revised to allow for the demolition and reconstruction of non-conforming structures. Prior to the adoption of the ordinance amendments, the standard philosophy was that non-conforming structures could be maintained at the current setback through the life of the structure but new structures and additions to existing structures needed

to comply with the current setback standards. In other words, properties should be made to comply over time to be more conforming. The new standard allows for reconstruction of the non-conforming uses after demolition since this was such a commonly requested zoning modification.

- **Corner Lot Open Yards.** Per the Zoning Ordinance, 1250' open yard requirements are not allowed to be in front yards, even for corner lots. Currently, City hearing bodies are reviewing proposed staff Zoning Ordinance amendments where lots with multiple street frontages (corners or through lots) could provide open yard in the secondary front yards, to the front property line, thus treating secondary front yards the same as interior yards. This change would reduce the likelihood of modification applications for open yards for corner lots.
- **Open Yard Requirements.** Open yard area slope requirements are proposed to change to recognize that sloped areas can provide visual open space, while still providing some useable area on steeply sloped parcels. Also it is proposed to allow some decks to be counted towards the open yard requirement under certain conditions. These changes may prevent some common open yard modification requests on constrained parcels to meet open yard requirements.

Two modification case types which may potentially be associated with NPO issues are as follows:

- **Large Home Projects.** Examples of projects with high FAR's or over-development concerns (large houses) that also involved the granting of zoning modifications have been examined to determine if different review criteria or different outcomes could have resulted if modifications were not proposed. The initial determination is that the zoning modification requests involving interior yard setbacks may have had some impact on the proximity of projects to neighbors (crowding effect) but not on the overall size of the project. In some cases, a zoning modification denial may have resulted in additional expense or the loss of open space elsewhere on the property.
- **Front Yard Modifications.** Some single-family residential projects involving modification approvals to front yard setbacks had more impact on development patterns along streets and on the location of parking garages. Projects involving large additions appear to benefit more from zoning modification approvals. In other words, the proposed project and expansion program dictated or triggered the need for zoning relief without sufficient explanation of hardship.

Planning Staff believes that the existing modification review process is working effectively. Overall, it appears modification approvals are instrumental in allowing reasonable development of properties. Extensive discussion of the modification approval process is not warranted at this time. Some discussion of the relationship between modifications and the NPO may be helpful to the Steering Committee and this process. Please note, Staff believes the current NPO trigger for ABR review associated with modifications should remain. There may also be advantages associated with making the list of administrative modification review criteria into a handout for inclusion in the Zoning Modification application. Staff recommends any concerns regarding modifications be forwarded to the Planning Commission for review and consideration.

Attachments

1. Downzoning: Map excerpt of 1975 EIR; Effects of Rezoning the City of Santa Barbara
2. Table: Effect of 1975 Rezoning- Setback Standards
3. Non-Conforming Structures- Excerpt-MC 22.87.030
4. Automobile Parking Requirements- Excerpt-MC 28.90
5. Modification, Variances- Excerpt- MC 22.92
6. Research on modification/variance ordinances of other cities
7. Graphs: Modification approval rate graphs by category
8. “The Variance”, a Governor’s Office of Planning and Research (OPR) Reference Paper

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EFFECTS OF 1975 REZONING- SETBACK STANDARDS

This table compares the zone changes made and resulting impacts to setback standards as a result of residential rezoning.

Neighborhood	Pre-1975 Zoning and front yard setback		Rezoning change and current front yard setback		Pre-1975 Zoning and interior yard setback		Rezoning change and current interior yard setback	
East Mesa	R-1	15 feet	E-3	20 feet	R-1	5 feet	E-3	6 feet
West Mesa	R-1	15 feet	E-3	20 feet	R-1	5 feet	E-3	6 feet
Alta Mesa (Area 1)	E-2	25 feet	E-1	30 feet	E-2	8 feet	E-1	10 feet
Alta Mesa (Area 2)	E-3	15 feet	E-1	30 feet	E-3	10 feet	E-1	10 feet
Alta Mesa (Area 3)	R-2	15 feet	E-1	30 feet	R-2	5 feet	E-1	10 feet
Bel Air (Area 1)	E-3	15 feet	E-1	30 feet	E-3	10 feet	E-1	10 feet
Bel Air (Area 2)	R-1	15 feet	E-3	20 feet	R-1	5 feet	E-3	6 feet
Oak Park	R-1	15 feet	E-3	20 feet	R-1	5 feet	E-3	6 feet
Samarkand (Area 1)	R-2	15 feet	E-3	20 feet	R-2	5 feet	E-3	6 feet
Samarkand Area 2)	R-3	10 feet 15 feet	E-3	20 feet	R-3	6 feet 10 feet	E-3	6 feet
East San Roque	R-1	15 feet 20 feet	E-3	20 feet	R-1	5 feet	E-3	6 feet
Upper East (Area 1)	E-2	25 feet	E-1	30 feet	E-2	5 feet	E-3	6 feet
Upper East (Area 2)	E-3	20 feet	E-1	30 feet	E-3	5 feet	E-3	6 feet
Lower Riviera (Area 1)	E-2	25 feet	E-1	30 feet	E-2	5 feet	E-3	6 feet
Lower Riviera (Area 2)	E-3	20 feet	E-1	30 feet	E-3	5 feet	E-3	6 feet
Lower Riviera	R-1	15 feet	E-3	20 feet	R-1	5 feet	E-3	6 feet
Eucalyptus Hill	E-2	25 feet	E-3	20 feet	E-2	5 feet	E-3	6 feet